S.B. CIVIL WRIT PETITION NO.1346/1996.
(STATE OF RAJASTHAN VS. BOARD OF REVENUE & ORS.)

DATE OF ORDER : 10.07.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. S.N. Tiwari for the petitioner.
Mr. S.M. Parihar for the respondents.

By this petition for writ, a challenge is given to the order dated 15.12.1993 passed by the Board of Revenue rejecting an application preferred by the State Government under Section 221 of the Rajasthan Tenancy Act read with Section 9 of the Rajasthan Land Revenue Act for setting aside the judgment and decree dated 26.09.1988 passed by the Revenue Appellate Authority-II, Jodhpur in appeal No.670/86.

In brief, facts of the case are that one Shri Shankar Singh resident of Sarwari, Tehsil Pachpadra, district Barmer was assessed under the Ceiling Act and 442 bighas of land was declared surplus, accordingly the same was acquired by the State Goverenment. The petitioner and several other similarly situated persons were in possession of the land in dispute prior to coming into force the Rajasthan Tenancy Act, but in the last settlement, the land was recorded in the name of assessee Shankar Singh, then he was entered as Mortgagor, with the

result that the land in dispute was deemed to be belonging to the assessee. The respondent No.3 and several other similarly situated persons then preferred suit for declaration and permanent injunction against assessee Shankar Singh as well as against the State Government. The suit came to be dismissed, however, the Revenue Appellate Authority-II, Jodhpur by accepting the appeals, decreed the suit. By the application under Section 221 of the Rajasthan Tenancy Act read with Section 9 of the Land Revenue Act, the State Government assailed validity of the order passed by the Board of Revenue in all eight cases. The Board of Revenue by its judgment 26.06.1993 dismissed seven applications. Relevant to note here that no challenge was given by the State Government to the order dated 26.06.1993 passed by the Board of Revenue in seven applications relating to seven persons similarly situated to the respondent No.3. By the order impugned dated 15.12.1993, the Board of Revenue rejected the application of the State Government preferred under Section 221 of the Rajasthan Tenancy Act read with Section 9 of the Land Revenue Act relating to the respondent No.3, who is now represented by his legal representatives, by placing reliance upon the judgment and order dated 26.06.1993. The State Government chose to assail validity, propriety and correctness of this order.

It is not in dispute that the case of the respondent No.3 is exactly similar to the cases of seven other persons with regard to whom the order dated 26.06.1993 was passed by the Board of Revenue and the State Government did not choose to challenge the same.

Learned counsel for the petitioner failed to point out any distinction in the case of the respondent No.3 with the other seven persons relating to whom the judgment dated 26.06.1993 was passed. No reason for giving challenge to the order dated 15.12.1993 is prescribed while accepting finality of the order dated 26.09.1993 i.e. relating to the other similarly situated persons. I am of the view that no distinction could have been made by the State Government in similarly situated persons and once the State Government has accepted the order dated 26.09.1993, the case of the petitioner should have also been considered in the same manner.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR)J.

Anil/